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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Robert Silva

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EXAMINER

OMOTOSHO, EMMANUEL

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/695,176	Applicant(s) SILVA ET AL.	
	Examiner EMMANUEL OMOTOSHO	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64-114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 115-161 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The invention as originally claimed is directed to playing a secondary game while the primary game, although frozen, is still in session. Thus the player concurrently plays the secondary game. The secondary game is not independent from the primary game since the initiation of the secondary game depends on the outcome of the primary game. Newly submitted claims are directed to a non-concurrent play of the secondary game. Wherein the play of the secondary game is independent of the primary game. This is a change in scope from the originally claimed invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 115-161 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 64-78, 82-97, 101-109 and 113-114 are rejected under 35 U.S.C. 102(e) as being anticipated by Cannon et al. US Pub No. 2002/0183105.

3. Claims 64, 71-74, 84, 90-93, 103-104, 108, 113-114: Cannon teaches a gaming device in a casino gaming network, comprising: a controller including at least one processor; memory; a first display; at least one interface for communicating with at least one other device in the gaming network (par 46-47); the gaming device being operable to: control a wager-based game played on the gaming device; display a first game selection menu including a first portion of content representing at least one first game play opportunity for selectively playing a first wager-based game at the gaming device (par 51, 129, i.e. player is giving the opportunity to select a game from the presented plurality of game of chances); receive first input from a first player relating to selection of a first game to be played at the gaming device (i.e. game selection buttons 77); accept, at the gaming device, a first wager by the first player, said first wager being associated with play of the first game at the gaming device (i.e. wagering button 79); initiate a start of a first active gaming session associated with the first game to thereby enable the first player to engage in game play of the first game at the gaming device; detect an occurrence of a first game lockup event relating to the first active gaming session (par 129, i.e. once a specific outcome is achieved, the game is locked up and is unavailable for play); enable, in response to detecting the first game lockup event, a first lockup

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mode at the gaming device (i.e. first game is frozen), wherein the first lockup mode is associated with the first active gaming session (i.e. the first game is frozen); disable, while the first lockup mode is enabled, player wagering capability at the gaming device for receiving wagers relating to the first active gaming session (i.e. first game is unavailable for play); provide, during at least a portion of time while the first lockup mode is enabled, at least one second game play opportunity for allowing the first player to selectively play a second wager-based game at the gaming device concurrently while the first lockup mode is enabled (par 129, 130, once the first game is locked up, player is given the chance to play any of the remaining games. In the case of par 130, player can now play any of the 3 remaining games); receive, while the first lockup mode is enabled, second input from a first player relating to selection of a second game to be played at the gaming device (par 130); determine an identity of the second game using the second input from the first player (par 130); accept, at the gaming device and while the first lockup mode is enabled, a second wager by the first player, said second wager being associated with play of the second game at the gaming device (par 69, 103); initiate, while the first lockup mode is enabled, a start of a second active gaming session associated with the identified second game to thereby enable the first player to engage in game play of the second game at the gaming device (par 130); and enable player wagers relating to the second active gaming session to be accepted at the gaming device during at least a portion of time while the first lockup mode is enabled (par 103, 130).

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4. Claims 65, 85: display, during at least a portion of time while the first lockup mode is enabled, a second game selection menu including a second portion of content relating to the at least one second game play opportunity for allowing the first player to selectively play the second wager-based game at the gaming device concurrently while the first lockup mode is enabled (par 130).
5. Claims 66, 86: wherein the second portion of content does not include a game play opportunity for allowing the first player to selectively play the first game at the gaming device (par 129, 130, i.e. the first game is locked up and frozen).
6. Claims 67, 68, 87, 88, 105, 106: further operable to: prevent an identity of the second game from being determined until after the second input has been received (par 130, i.e. the outcomes of the second game is determined after player inputs).
7. Claims 69, 89, 107: being further operable to: determine the identity of the second game after initiation of the first active gaming session and in response to receiving the second input from the first player; and prevent acceptance of wagers on the second game before the identity of the second game has been determined (par 103, 130 i.e. the player wagers enough credit to play multiple games at the beginning or wager individually on each game to establish enough credit for playing and initiating said game).
8. Claim 70: further comprising: an input mechanism for receiving cash or an indicia of credit (par 103).
9. Claims 75-76, 94-95: wherein the gaming device is further operable to: detect an occurrence of a first game reset event relating to the first active gaming session;

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disable, in response to detecting the first game reset event, the first lockup mode at the gaming device; and enable, in response to the first lockup mode being disabled at the gaming device, wagers relating to the first active gaming session to be accepted at the gaming device (par 24, claims 62-63).

10. Claims 77, 96: wherein the first game lockup event relates to detection of a first value payout associated with the first active gaming session being at least a predetermined amount (Par 9,129-130. For example, gaming outcome 21 is a winning outcome. This locks first game, enables second game.).

11. Claims 78, 97, 109. (new) The gaming device of claim 64 wherein the first game lockup event relates to detection of a hand payout event relating to the first active gaming session, the hand payout event necessitating manual or hand payout of a first payout amount to the first player in connection with the first active gaming session (par 24, 70. i.e. the game lockup event is a winning outcome that could be manually paid by the casino operator).

12. Claims 82, 101: wherein the first game selection menu includes content representing at least one first game play opportunity for selectively playing a first game type selected from a first group consisting of: poker, blackjack, slots, keno, craps, roulette and bingo; wherein the first game is associated with a first game type wherein the second game selection menu includes content representing at least one second game play opportunity for selectively playing, during at least a portion of time while the first lockup mode is enabled, a second game type which is different than the first game type (par 130).

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13. Claims 83, 102: wherein the first game is associated with a first game type; and wherein the second game corresponds to a different version of the first game type (par 130).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 79-81, 98-100 and 110-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon.

16. Cannon as shown above teaches all the present invention but fail to teach the different kind of payout outcome (i.e. taxable payout event, jackpot payout event and WAP payout event) as the lockup event. However, as shown above Cannon teaches that the lockup event is a specified game configuration such as a winning outcome. Taxable payout event, jackpot payout event and WAP payout event are all different types of winning outcomes. For a designer to choose to configure the lockup event to be that of a taxable payout event, jackpot payout event or a WAP payout event is strictly dependent on the designer's choice. Thus, the examiner views these limitations as a matter of design choice well within the skill set of an ordinary skilled artisan.

Response to Arguments

17. Applicant's arguments filed 11/25/08 have been fully considered but they are not persuasive.

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18. Applicant should respectfully note that no where did Cannon state that the wagering button is disabled at any stage. In par 103, Cannon specifically teaches that the player is giving the ability to alter a wager through the wagering input element. Applicant should further note that Cannon is not configured to allow a player to select X amount of games. Cannon is configured to allow a player to select X amount of classes of games. The player is allowed to play each class of games (i.e. initiate play sessions) as many times as the player wants granted the credit meter is at a sufficient level. Par 106. Par 117 also states that a wager maybe required for a subsequent game. A requirement that would be impossible to fulfill if the wagering button was disabled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL OMOTOSHO whose telephone number is (571)272-3106. The examiner can normally be reached on m-f 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EO

/Ronald Laneau/

Primary Examiner, Art Unit 3714

02/13/09